

FOR HEARING BEFORE THE
COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN
RIGHTS, AND INTERNATIONAL
OPERATIONS

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India is a great nation and it will occupy its rightful place as a global leader in the comity of nations. But it will not happen unless the caste system is abolished and along with it the terrible discrimination against Dalits in present day India.

No nation can achieve its true greatness and potential if a vast majority of its people are discriminated against on the basis of descent and occupation. Caste discrimination and prejudice in the new India continues to banish nearly a quarter of its population, a size equal to the population of the US, to a world of abuse, exploitation, bonded child labor, sex trafficking, landlessness, illiteracy, dehumanization and disempowerment.

This has been described by Dalit leaders as India's silently sustaining apartheid against its own people based on an evil and sinister grading and classification of society on the basis of birth and the accompanying occupation. This takes away the dignity of human identity and the dignity of labor as labor gets classified into that which is "pure" and "impure". Working with the skin of dead animals for example is an "impure" occupation and consigned to the "untouchables" or "Dalits". You will never see anywhere in India a "brahmin" caste person ever working with the skin of dead animals. Nor will you ever see a "brahmin" caste person ever cleaning the toilets, or even tilling the land because that, too, is the work of the "Dalits".

India's tragedy is that society continues the practice of the caste system even though the practice of untouchability stands abolished by the Constitution. Year after year the statutory ST/SC commission tables its reports in Parliament on the atrocities and discrimination against Dalits but there is no action taken.

One element of restorative justice provided in the Constitution was "reservation", a quota system, for Dalits. If it was not for this we would have not seen any Dalit leadership and

intellectuals emerging from those communities in modern day India, leadership that today campaigns for the abolishment of caste.

However in an interesting twist that ended up in blatant discrimination against Dalit Christians, a Presidential order of 1950 provided affirmative action only for Dalits who subscribed to Hinduism and kept the suffering of caste and untouchability. The argument was that since Buddhism, Sikhism, Christianity and Islam did not teach the practice of the caste system, Dalits who had converted to these religions would not receive “affirmative action”.

In one stroke, this Presidential ordinance violated the Constitutional provision which states the State will not discriminate on the basis of religion. Again the State became guilty of using “affirmative action” benefits to keep Dalits enchained within the Hindu caste system.

Dalit Sikhs and Dalit Buddhists campaigned long and hard to have the the affirmative action benefits extended to them. Their argument was potent: Caste is a social stigma and an identity that does not vanish when Dalits turn to another religion. Their Dalit stigma goes with them. Dalit discrimination goes with them. Wider society still stigmatizes, oppresses and discriminates against them because they are Dalits. Their socio-economic conditions do not change and the long history of exploitation does not come to an end when they adopt a non-casteist faith.

After a long campaign, both Dalit Sikhs and Dalit Buddhists had the affirmative action benefits restored to them.

But Dalit Christians continued to be oppressed because of the denial of “affirmative action” to them.

As Archbishop Chinnappa of Tamil Nadu, himself a Dalit, points out:

“The usual argument posed against the extension of reservation to Dalit Christians is that there is no caste system in Christianity. This is right. Christianity does not preach any caste discrimination. But the situation in India is different. Our society is based on the caste system. From cradle to grave, caste considerations rule the roost. Dalits of all religions live in the same society ruled by caste values. A change of religion does not alter the socio-economic status of Dalits. The social stigma and ostracism in society continue to haunt them wherever they go. A Dalit is considered untouchable, irrespective of the religious faith he or she may profess. As for atrocities, there is no discrimination between a Hindu Dalit and a Christian Dalit.”

Furthermore, the Archbishop, commenting on the Presidential order of 1950 says:

“The Order violates the letter and spirit of many articles of our Constitution. Article 15 says: ‘The State shall not discriminate against any citizen only on grounds of religion, race, caste, sex, place of birth or any of them.’ But here we see the state itself

discriminating on the basis of religion within a given caste group. Article 25 reads: ‘... all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion.’ But the Order denies the freedom of religion to Dalits. In fact, it amounts to forced inducement or allurement by the state by offering constitutional protection and privileges to Dalits in order to stay in a religion and by punishing them by withdrawing the same benefits if they dared to profess a religion of their choice.”

A number of Commissions and even the Supreme Court have vindicated the stand taken by Dalit Christians that the change of religion does not change their status and identity in society – it will afford them a way out from a religion that teaches the caste system as something that has come from the creation order of God. One of the Supreme Court’s rulings has the following paragraph in it:

“... to deny [Dalit Christians] the constitutional protection of reservation solely by reason of change of faith or religion is to endanger the very concept of Secularism and the *raison d’être* of reservations.” (Art. 271 of the Mandal Case Judgment. Cfr. Page No. 367, Vol. 6. No. 9, Nov. 30, 1992, Judgment Today.)

Now in a recent development due to the filing of a petition in the Supreme Court by a human rights organization and a Dalit Christian lawyer which asks for a review of the Presidential order of 1950 as it violates the fundamental rights of Dalit Christians, the Supreme Court asked for the Government’s response to this petition.

The present UPA government once again in a delay tactic asked for more time and announced that it has passed the matter to a commission. On October 18, 2005, this petition comes for hearing again in the Supreme Court by which time the Government of India has to give its answer. The petitioners are asking for a bill in Parliament which will give the same affirmative action as given to other Dalits.

It is simply amazing that nearly 70% of India’s 30 million Christians who are Dalits have been denied basic benefits that rightly should be theirs. The All India Christian Council has issued the following appeal to the Government of India, heads of political parties and Members of Parliament. I ask that you include this statement in the record.

In closing, I want to ask that you consider the impact the United States Congress has on the inner workings of India, especially when it comes to an issue as important as religious freedom. Whether or not you agree with the system of reservation, you must agree that denying a constitutional right to a large percentage of the population based solely on religion is illegal and immoral. Your willingness to support the Christian Dalits in this cause will send a message to the rest of the world that the United States supports religious freedom in all countries at all times.

Thank you.

**All India Christian Council,
Hyderabad,
India,
August 25th , 2005**

APPEAL FOR RESTORATION OF FUNDAMENTAL RIGHTS TO DALIT CHRISTIANS

Christian Dalits continue to suffer for their allegiance to the Christian faith. They are discriminated against both within the Church and outside of the Church. Their rights are trampled upon. Their very existence is one of misery and suffering.

On behalf of all Dalit Christians, the All India Christian Council (aicc) seeks immediate steps to amend the Presidential Constitutional Scheduled Caste Order 1950, Paragraph 3 [Promulgated in the Union of India, Ministry of Law notification No SRO 385 (CO 19) dated 10.08.1950]. This is to see that Christians of Scheduled Caste origin are treated as Schedule Castes for availing themselves of the reservation benefits under Articles 330, 332, 334, 335, 338, 341, 366 (24).

According to the 1991 Census, Dalit Christians constitute about 75 per cent of the total Christian population in India. Yet educationally, culturally and economically, Dalit Christians are treated as people who have no rights and they occupy the lowest position in society.

Realising their plight in the Church and outside, Dr BR Ambedkar had strongly condemned the suppression and oppression of Dalit Christians. Mahatma Gandhi in his newspaper 'Harijan' dated 26.12.1936 supported the cause of Dalit Christians. Even former Deputy Prime Minister Babu Jagjivan Ram openly voiced his concern over their plight and fought for their rights.

The Christian Council therefore seeks necessary steps as per Article 341 (1) to amend the Presidential Constitutional Scheduled Caste Order 1950, paragraph 3. The 1950 Order stands against Articles 15 (2), 16 (2) 29 (2), the Freedom of Religious Act, the Removal of Caste Disabilities Act 1850 and the Hindu Succession Act 1925. The Union of India's high power panel on Minorities, Schedule Castes, Scheduled Tribes and Other Weaker Sections, in its 1983 report observed that earlier disabilities continued for Dalit Christians even after leaving the Hindu fold to the Christian faith.

The National Commission on Minorities has recently recommended the extension of statutory benefits to SC Christians as Schedule Castes. According to the Government of India, Ministry of Welfare, note to the Union Cabinet No 12016/30/90 – SCD (R Cell), the Proposal of the Ministry of Welfare has been corroborated as a positive step. Paragraph 26 of the Proposal says:

“Taking these factors into consideration, the Ministry of Welfare proposes that recognition of Scheduled Caste converts to Christianity as Scheduled Castes be accepted. This will require amendment by an Act of Parliament to the relevant provisions of the Constitutional Scheduled Castes Order, 1950.”

Paragraph 32 of the Proposal contains the observations made by the Joint Secretary to the Union Government of India: “In the light of the above, the approval of the Cabinet is solicited on the proposal in Para 26 to include Christian converts from the Scheduled Castes as Schedule Castes through amendments to be effected by an Act of Parliament.”

It may be recalled when the special reporter on UN Human Rights Commission on Religious Intolerance questioned the prevailing inequality against Dalit Christians of India way back in 1997, the Law Secretary, Union Government, positively acknowledged such a practice. According to

Document Ref No E/CN.4/1997/91 Add 1 Dated 14.02.97, “Equality should be given to Dalit Christians by making proper amendment in Parliament.”

National Convention of the Parliamentary Forum of SCs and STs passed a resolution on 16-17 June 1992 in New Delhi to extend Scheduled Castes reservation facilities to Dalit Christians. A memorandum signed by about 200 members of Parliament was submitted to then Prime Minister PV Narashimha Rao. A reminder memorandum signed by 54 members of Parliament was submitted to PV Narasimha Rao on 17.08.1993. Another memorandum signed by 325 members of Parliament was submitted to him in May 1995. In all at least 500 MPs signed in one or the other memoranda to the Prime Minister on the issue of extending SC reservation to Dalit Christians.

Various State Governments and Commissions like the Mandal Commission, the Backward Class Commission of Andhra Pradesh, the Kumara Pillai Commission Report in Kerala, the Elayaperumal Commission, the Satananthan Commission, the Chidambaram Commission Report, the Kaka Kalelkar Commission Reports and Union Minorities Commission Reports had recommended to the Central and State Governments to extend SC reservation privileges to Dalit Christians.

The Supreme Court on a number of occasions had clearly given verdicts to support Dalit Christians. The only legislation directly impinging on caste autonomy was the Caste Disabilities Removal Act (Act XXI of 1850 also known as the Freedom of Religious Act), which provided forfeiture of civil or property rights ‘by reason of renouncing or having been excluded from the communion of, any religion or being deprived of caste.’

Although Sikhism and Buddhism do not recognise caste system, Dalit Sikhs and Buddhists are given SC Reservation privileges. In the same manner, Tribal Christians are considered as socially backward people and they are treated as Tribals. And no religion is referred to while giving privileges to Tribal Christians. In the same manner Dalit Christians may be extended Scheduled Caste reservation privileges.

In 1997 the United Nations High Commissioner for Human Rights published a Letter Document Ref No E / CN 4 / 1997 / 91 / Add I dated 14.02.1997 on religious intolerance prevailing in India. As a written reply, the Union of India’s secretary had agreed to solve the injustice done to Dalit Christians by

giving them equal Scheduled Caste privileges through necessary legislations. The above document from the law secretary is cogent authoritative testimonial evidence from the Central Government.

All these, prime facie, are evidences to substantiate the stand taken by the Christian Council. Even in Parliament, Union Ministers had given positive assurances on umpteen occasions. According to the Parliamentary Assurances Committee's rules and regulations, the assurances are the positive cogent authoritative evidences to prove Dalit Christians' social, educational, economical and cultural backwardness.

On behalf of the suffering Dalit Christians, aicc seeks immediate measures to end the ill-treatment meted out to Dalit Christians and see that they are treated as people of Scheduled Caste origin, enjoying all the benefits reserved for the Scheduled Castes.

Signed:

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